

Assembly Bill No. 1888

CHAPTER 455

An act to amend Sections 1127, 1137, and 1150 of, and to add Section 1193 to, the Harbors and Navigation Code, relating to harbors and ports.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1888, Ma. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The board consists of 7 members, appointed by the Governor, with the consent of the Senate, with specified staggered terms.

This bill would revise the terms for members of the board who are licensed pilots and members who represent the industry.

Existing law specifies the rates of bar pilotage for vessels inward or outward bound through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun and also imposes certain movement fees and surcharges.

This bill would exempt from those pilotage fees and surcharges noncommercial vessels that are maritime academy training vessels and vessels owned and operated by nonprofit museums or foundations. These vessels would be subject to the board operations surcharge.

Existing law exempts from pilotage fees a vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade, as described, unless a pilot or inland pilot is actually used. A foreign vessel, a vessel bound to or from a foreign port, or a vessel sailing under a register is required to use a pilot or inland pilot. These provisions do not apply to a vessel that is less than 300 gross tons and is manufactured and used for private recreation.

This bill would instead state that those provisions do not apply to a vessel that is less than 750 gross tons and is manufactured and used for private recreation.

The people of the State of California do enact as follows:

SECTION 1. Section 1127 of the Harbors and Navigation Code is amended to read:

1127. (a) The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, property, and vessels using the waters of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage by providing competent, efficient, and regulated pilotage for vessels required by this division to secure pilotage services.

(b) This section does not supersede, modify, or otherwise alter pilot practices that are not safety related, including, but not limited to, the determination of rates charged for pilot services or employer-employee relationships for individuals, agencies, or organizations involved in providing pilotage services between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States that is in existence on December 31, 1995, or otherwise abridge the authority of local port or harbor districts relating to pilotage in effect on December 31, 1995.

(c) The board shall regulate pilotage on waters of the state as provided in this division.

(d) A vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade between a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and another port of the United States is exempt from all pilotage charges unless a pilot or inland pilot is actually employed. A foreign vessel and a vessel bound between a foreign port and a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and a vessel sailing under a register between a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and another port of the United States, shall use a pilot or inland pilot holding a license issued pursuant to this division, except as otherwise provided by law.

(e) Subdivision (d) does not apply to a vessel that is less than 750 gross tons and is manufactured and used for private recreation.

SEC. 2. Section 1137 of the Harbors and Navigation Code is amended to read:

1137. (a) The account required pursuant to Section 1136 shall show all of the following:

- (1) The name of each vessel piloted.
- (2) The name of each vessel for which pilotage has been charged or collected.
- (3) The amount charged to or collected for each vessel.
- (4) Any rebates made and allowed and for what amounts.
- (5) The amount of the fees and surcharges not collected pursuant to Section 1193.
- (6) The depth of each vessel's draft and its highest gross tonnage.
- (7) Whether the vessel was inward or outward bound.

(b) The board shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

SEC. 3. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the Business, Transportation and Housing Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, no public member appointed may have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Members appointed pursuant to subdivision (a) shall be appointed with staggered terms as follows:

(1) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, except that the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (1) of subdivision (a) shall be appointed to a term expiring on December 31, 2014, and the first member appointed after December 31,

2012, to an initial term pursuant to paragraph (2) of subdivision (a) shall be appointed to a term expiring on December 31, 2014.

(2) Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively.

(3) A person may not be appointed for more than two terms.

(4) Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

(d) The Secretary of the Business, Transportation and Housing Agency shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.

SEC. 4. Section 1193 is added to the Harbors and Navigation Code, to read:

1193. (a) Notwithstanding Section 1120, only the following noncommercial vessels that use pilotage services are exempt from the pilotage fees and surcharges established pursuant to this division, except for the board operations surcharge as established and calculated pursuant to Section 1159.1:

- (1) Maritime academy training vessels, whether foreign or domestic.
- (2) Vessels owned and operated by a nonprofit museum or foundation.
- (b) The vessels specified in subdivision (a) are subject to Section 1198.